



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/822,901 | 04/13/2004 | James E. Robertson | 5362-000489 | 3998 |
| 27572 | 7590 | 12/13/2006 | EXAMINER | |
| HARNESSE, DICKEY & PIERCE, P.L.C. | | | PAPE, JOSEPH | |
| P.O. BOX 828 | | | ART UNIT | |
| BLOOMFIELD HILLS, MI 48303 | | | PAPER NUMBER | |

3612

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,901

Applicant(s)

ROBERTSON ET AL.

Examiner

Joseph D. Pape

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 and 70-95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-33 and 81-92 is/are allowed.
- 6) ☒ Claim(s) 34,41,43,44,70,75-79,93 and 94 is/are rejected.
- 7) ☒ Claim(s) 35-40,42,45,46,71-74,80 and 95 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 and 14 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 70, 79 and 94 are rejected under 35 U.S.C. 102(b) as being anticipated by the Australian reference AU-B-36652/95.

The Australian reference discloses the claimed convertible roofed vehicle including front and rear seating areas, front and rear passenger door openings and cross member reinforcement 41.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3612

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 34 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith '232 in view of de Rosa et al. '276.

Smith discloses a convertible automobile including front and rear seating areas and front and rear passenger door openings.

Smith does not disclose a structural reinforcement extending across the vehicle between the seating areas, being a hollow beam and being located adjacent to a beltline of the vehicle body.

De Rosa et al. disclose a front seating arrangement including a "reinforcement" 5 which extends across the vehicle directly behind the front seat, is constructed as a hollow beam and is located adjacent to a beltline of the vehicle body.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the front adjustable seating arrangement, including the hollow reinforcement, of de Rosa et al. for that of Smith as an alternate seating

Art Unit: 3612

arrangement which permits seat adjustment without the seat back extending rearwardly of the B pillars.

6. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 34 above, and further in view of EPO reference '662.

Smith, as modified discloses the claimed invention except for roll bars on the cross beam.

The EPO reference discloses the use of roll bars 12 on a cross beam of a convertible top for increased occupant head protection.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide roll bars of the cross member of Smith, as modified, as taught by the EPO reference for increased occupant head protection.

7. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 34 above, and further in view of Sims.

Smith, as modified, discloses the claimed invention except for the convertible roof being constructed to be automatically actuated.

Sims discloses a convertible roof arrangement including a pliable roof portion and a hard-top panel 14. The roof has an automatic actuator. See claim 10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the roof of Sims for that of Smith, as modified, in order to automate the raising and lowering of the roof.

8. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian reference '2/95 in view of the EPO reference '662.

The Australian reference discloses the claimed invention except for roll bars on the cross beam.

The EPO reference discloses the use of roll bars 12 on a cross beam of a convertible top for increased occupant head protection.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide roll bars of the cross member of the Australian reference as taught by the EPO reference for increased occupant head protection.

9. Claim 76 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian reference '2/95.

The Australian reference '2/95 discloses the claimed invention except for the specific front seat arrangement.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Australian reference with a front seat arrangement including two independently movable seats because such seat arrangement is notoriously well known and would involve no new or unexpected results in this instance.

10. Claims 77 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian reference '2/95 in view of Sims.

The Australian reference discloses the claimed invention except for the convertible roof being constructed to be automatically actuated.

Sims discloses a convertible roof arrangement including a pliable roof portion and a hard-top panel 14. The roof has an automatic actuator. See claim 10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the roof of Sims for that of the Australian reference in order to automate the raising and lowering of the roof.

Allowable Subject Matter

11. Claims 1-33 and 81-92 are allowed.

12. Claims 35-40, 42, 45-46, 71-74, 80 and 95 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

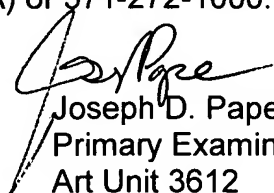
13. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 12/8/06
Joseph D. Pape
Primary Examiner
Art Unit 3612

Jdp

12/8/06